



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

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BILL HASLAM
GOVERNOR

DANIELLE W. BARNES
COMMISSIONER

February 1, 2018

Theresa Fox, Owner
Over the Rainbow Development Center, Incorporated
3357 South Grundy Quarles Highway
Gainesboro, TN 38562-5946

Dear Dr. Fox,

The Department of Human Services (DHS) - Audit Services Division staff conducted an unannounced on-site monitoring review of the Child and Adult Care Food Program (CACFP) at Over the Rainbow Development Center, Inc. (Sponsor), Application Agreement number 00-452, on January 11, 2017. Additional information was requested and received on January 12, 2017 to complete the review. The purpose of this review was to determine if the Sponsor complied with the *Title 7 of the Code of Federal Regulations* (CFR) applicable parts, application agreement, and applicable Federal and State regulations.

Background

CACFP Sponsors utilize meal count sheets to record the number of breakfast, lunch, supper, and supplement meals served. Meals served by participating Sponsors must meet the minimum guidelines set by the United States Department of Agriculture (USDA) and DHS to be eligible for reimbursement. The CACFP Sponsor reports the number of meals served through the DHS Tennessee Information Payment System (TIPS) system to seek reimbursement. We inspected meal counts sheets for our test period and reconciled the meals claimed to the meals reported as served for each meal service. We also assessed compliance with civil rights requirements. In addition, we observed a meal service during our unannounced visit on December 12, 2017.

Our review of the Sponsor's records for December 2017 disclosed the following:

1. The Sponsor improperly classified eligibility of the CACFP participants

Condition

The Claim for Reimbursement for the test month reported 26 participants in the free category, six participants in the reduced-price category, and 26 participants in the paid category. However, based on our review of the Sponsor's records, we found that there were 25 participants in the free category, six participants in the reduced-price category, and 27 participants in the paid category.

The differences were based on the following:

- There was one participant that did not have a current CACFP application on file and was reported in the free category. This participant was reclassified as paid.

There were 58 participants claimed and confirmed participating in the program. The adjustment in the free, reduced-price, and paid categories affected the claiming percentages. (See Exhibit)

Criteria

Title 7 of the Code of Federal Regulations, Section 226.10(c) states, "... In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim. ..."

Recommendation

The Sponsor should report each participant in the correct category, based on properly completed applications.

2. The Sponsor reported incorrect meal counts

Condition

The Claim for Reimbursement for the test month reported 563 breakfast meals, 640 lunch meals, and 725 supplements served. However, our review of Sponsor's records disclosed that there were 573 breakfast meals, 641 lunch meals, and 776 supplements served prior to any meal disallowances.

As a result, the Sponsor under reported 10 breakfast meals, one lunch meal, and 51 supplements served. (See Exhibit)

Criteria

Title 7 of the Code of Federal Regulations, Section 226.10(c) states, "... In submitting a Claim for Reimbursement, each institution shall certify that the claim is correct and that records are available to support that claim. ..."

Recommendation

The Sponsor should ensure that claims for reimbursement are completed correctly and based on the proper supporting documents, such as meal count sheets.

3. The Sponsor provided menus that did not meet USDA meal pattern requirements

Condition

The menu for the breakfast served on December 7, 2017 listed milk, biscuit and white gravy. There was no vegetable, fruit, or juice component served as required-

As a result, 27 breakfast meals served were disallowed. (See Exhibit)

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20 (c) states, "Each child care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in §226.20. ..."

Title 7 of the Code of Federal Regulations, Section 226.20 (c) (1) states, "Fluid milk, vegetables or fruit, or portions of both, and grains are required components of the breakfast meal. Meat and meat alternates may be used to meet the entire grains requirement a maximum of three times per week."

Recommendation

The Sponsor should review menus to confirm meals contain all required components and are eligible for reimbursement.

4. The Sponsor did not provide enrollment information for all participants

Condition

The Sponsor did not have enrollment information on file for one participant.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.15(e) states, "Each institution shall establish procedures to collect and maintain all program records required under this part, as well as any records required by the State agency... At a minimum, the following records shall be collected and maintained: (2) Documentation of the enrollment of each participant at centers..."

The USDA policy memorandum, CACFP 15-2013 Existing Flexibilities in the Child and Adult Care Food Program states, "CACFP regulations require that institutions maintain documentation for participants enrolled to receive care [7 CFR 226.15(e)(2) and (e)(3)]. Documentation of participant's enrollment must include information on normal days and hours of care and the meals the participant normally receives while in care. ..."

Recommendation

The Sponsor should ensure that current enrollment information is available for all participants.

5. The Sponsor did not have a working thermometer for the refrigerator

Condition

During our on-site visit on December 12, 2017, we noted that there was no thermometer in the refrigerator. There was a working thermometer in the freezer and there was no evidence that food was not being properly stored.

Criteria

Title 7 of the Code of Federal Regulations, Section 226.20(l) states "Institutions and facilities must ensure that in storing, preparing, and serving food proper sanitation and health standards are met which conform with all applicable State and local laws and regulations. Institutions and facilities must ensure that adequate facilities are available to store food or hold meals."

The USDA Refrigeration and Food Safety Guide, page 2, states, "Refrigerators should be set to maintain a temperature of 40 °F or below. Some refrigerators have built-in thermometers to measure their internal temperature. For those refrigerators without this feature, keep an appliance thermometer in the refrigerator to monitor the temperature. ...".

Recommendation

The Sponsor should ensure food items are properly stored, and working thermometers are checked to ensure refrigerators and freezers are safely storing perishable and frozen foods.

Note: A working thermometer was in place during our subsequent unannounced visit on January 12, 2017. No further corrective action is necessary to address this finding.

Note: Our observation of the meal service during our unannounced visit on December 12, 2017, revealed no material deficiencies.

Technical Assistance Provided

During our visit on December 12, 2017, technical assistance was provided regarding the new meal pattern requirements effective October 1, 2017.

Disallowed Meals Cost

The disallowed meals cost associated with the findings above are below the DHS threshold for repayment.

Corrective Action

Over the Rainbow Development Center, Inc. must complete the following actions within 30 days from the date of this report:

- Prepare and submit a corrective action plan to address the deficiencies identified in this report. The corrective action plan template is attached. Please return the corrective action plan to:

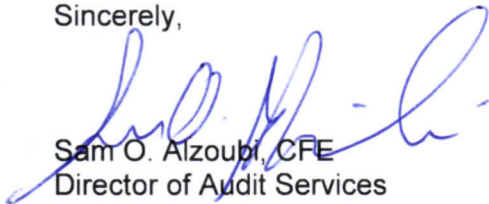
AuditServices.CAPS.DHS@tn.gov

If you have questions relative to the corrective action plan please contact:

Allette Vayda, Director
Child and Adult Care Food Program
8th Floor Citizens Plaza Building
400 Deaderick Street
Nashville, Tennessee 37243
Allette.Vayda@tn.gov
(615) 313-3769

We appreciate the assistance provided during this review. If you have any questions regarding this report, please contact Sean Baker, Audit Director 2, at 615-313-4727 or Sean.Baker@tn.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sam O. Alzoubi", is written over the printed name and title.

Sam O. Alzoubi, CFE
Director of Audit Services

Exhibit

cc: Allette Vayda, Director, Child and Adult Care Food Program
Debra Pasta, Program Manager, Child and Adult Care Food Program
Elke Moore, Administrative Services Assistant 3, Child and Adult Care Food Program
Constance Moore, Program Specialist, Child and Adult Care Food Program
Marty Widner, Program Specialist, Child and Adult Care Food Program
Comptroller of the Treasury, State of Tennessee

EXHIBIT**Verification of CACFP Independent Center Claim****Center: Over the Rainbow Development Center INC.****Review Month/Year: December 2017****Total Reimbursement: \$ 2294.28**

Site Meal Service Activity and Monitor Reconciliation	Reported on Claim	Reconciled To Documentation
Number of Days that CACFP Food Service was operated	16	16
Total Attendance	811	812
Number of Breakfasts Served	563	546
Number of Lunches Served	640	641
Number of Supplements Served	725	776
Number of Participants in Free Category	26	25
Number of Participants in Reduced-Price Category	6	6
Number of Participants in Paid Category	26	27
Total Number of Participants	58	58
Total Amount of Food Costs	XXXXXXXX	\$ 551.08
Total Amount of Eligible Food and Nonfood Costs	XXXXXXXX	\$ 1,132.87

**Corrective Action Plan for Monitoring Findings**

Instructions: Please print in ink or type the information to complete this document. Enter the date of birth for each Responsible Principal and/or Individual in Section B. Attach the additional documentation requested.

Enter your name, title and date of signature on the last page. Please sign your name in ink.

Please return ALL pages of the completed Corrective Action Plan form.

Section A. Institution Information

Name of Sponsor/Agency/Site: Over the Rainbow Development Center, Inc	Agreement No. 00452	<input type="checkbox"/> SFSP <input checked="" type="checkbox"/> CACFP
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Mailing Address: 3357 South Grundy Quarles Highway Gainsboro, TN 38562-5946

Section B. Responsible Principal(s) and/or Individual(s)

Name and Title: Theresa Fox, Owner	Date of Birth: / /
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Section C. Dates of Issuance of Monitoring Report/Corrective Action Plan

Monitoring Report: 2/1/2018	Corrective Action Plan: 2/1/2018
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Section D. Findings

Findings:

1. The Sponsor improperly classified eligibility of the CACFP participants
2. The Sponsor reported incorrect meal counts
3. The Sponsor provided menus that did not meet USDA meal pattern requirements
4. The Sponsor did not provide enrollment information for all participants
5. The Sponsor did not have a working thermometer for the refrigerator
- 6.

The following measures will be completed within **30 calendar days** of my institution's receipt of this corrective action plan:

Measure No. 1: The Sponsor improperly classified eligibility of the CACFP participants

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No.2: The Sponsor reported incorrect meal counts

The finding will be fully and permanently corrected.
Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name: Position Title:

Name: Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 3: The Sponsor provided menus that did not meet USDA meal pattern requirements

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 4: The Sponsor did not provide enrollment information for all participants

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

Measure No. 5: The Sponsor did not have a working thermometer for the refrigerator

The finding will be fully and permanently corrected.

Identify the name(s) and position title(s) of the employee(s) who will be responsible for ensuring that the finding is fully and permanently corrected:

Name:

Position Title:

Name:

Position Title:

Describe below the **step-by-step** procedures that will be implemented to correct the finding:

When will the procedures for addressing the finding be implemented? Provide a timeline below for implementing the procedures (i.e., will the procedures be done daily, weekly, monthly, or annually, and when will they begin?):

Where will the Corrective Action Plan documentation be retained? Please identify below:

How will new and current staff be informed of the new policies and procedures to address the finding (e.g., Handbook, training, etc.)? Please describe below:

I certify by my signature below that I am authorized by the institution to sign this document. As an authorized representative of the institution, I fully understand the corrective measures identified above and agree to fully implement these measures within the required time frame. I also understand that failure to fully and permanently correct the findings in my institution's CACFP or SFSP will result in its termination from the program, and the placement of the institution and its responsible principals on the National Disqualified List maintained by the U.S. Department of Agriculture.

Signature of Authorized Institution Official: _____

Date: / /

Signature of Authorized TDHS Official: _____

Date: / /

- (xi) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity;

(c) Administrative review is also available if the State agency notifies the institution and responsible principal or responsible individual of the following actions: proposed disqualification of a responsible principal or responsible individual, denial of a budget, denial of a line item within a budget, downward adjustment of the amount approved in a budget, suspension of an institution's participation, denial of start-up or expansion funds, denial of a request for advanced payment, recovery of an advance in excess of a claim, denial of a claim for reimbursement (except for late submission), decision not to forward an exception request for payment of a late claim, overpayment demand, denial of a new or renewing institution's application for participation, denial of sponsored facility application, notice of proposed termination, claim denial, claim deadline exceptions and requests for upward adjustments to a claim, or any other action affecting an institutions participation or claim for payment.

3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.
4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.
5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.
6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Proposed Termination, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16th calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.
7. To be considered for a fair hearing or for a review of written information in lieu of a fair

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hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:
 - (i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.
 - (ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.
 - (iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(iii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.
9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.
10. The institution and the responsible principals and responsible individuals may retain legal counsel, or may be represented by another person.
11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.
12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.
13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.
14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.
15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This

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continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings who will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

Tennessee Department of Human Services
Division of Appeals and Hearings
PO Box 198996, Clerk's Office
Nashville, TN 37219-8996
Fax: (615) 248-7013 or (866) 355-6136
E-mail: AppealsClerksOffice.DHS@tn.gov

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer. The agency maintains searchable records of all administrative reviews and their dispositions for a period of five (5) years.

18. As required by 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.